United States District Court

NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

C. RAYMOND JONES, JR. a/k/a CLEOTIS RAYMOND JONES, JR., TDCJ No. 1107489	§	
v.	§	CIVIL ACTION NO. 3:21-CV-1445-S-BN
DIRECTOR, TDCJ-CID.	§	

ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND DENYING A CERTIFICATE OF APPEALABILITY

Before the Court are the second Findings, Conclusions, and Recommendation of the United States Magistrate Judge entered in this case ("Second FCR") [ECF No. 10]. An objection was filed by Petitioner [ECF No. 15]. The District Court reviewed *de novo* those portions of the Second FCR to which objections were made, and reviewed the remaining portions of the Second FCR for plain error. Finding none, the Court **ACCEPTS** the Second FCR. The Court therefore **DENIES** the Motion for Reconsideration filed by Petitioner C. Raymond Jones, Jr. a/k/a Cleotis Raymond Jones, Jr. [ECF No. 9] under Federal Rule of Civil Procedure 59(e).

The Court previously accepted other Findings, Conclusions, and Recommendation in this case ("First FCR") [ECF No. 5] that habeas relief be denied and entered judgment on September 1, 2021. *See* ECF Nos 7, 8. Then, on September 17, 2021, the Clerk docketed Petitioner's objections to the First FCR. *See* ECF No. 13. Having now reviewed *de novo* those portions of the First FCR implicated by those objections, they do not affect, and provide no basis to reconsider, the Court's decision to enter judgment denying the habeas petition as time barred.

The Court previously denied Petitioner a certificate of appealability ("COA") as to the dismissal of his habeas petition. *See* ECF No. 7. But, because a COA "is required to appeal the

denial of a Rule 59(e) motion in a habeas case," *Mitchell v. Davis*, 669 F. App'x 284, 284 (5th Cir. 2016) (per curiam) (citing *Ochoa Canales v. Quarterman*, 507 F.3d 884, 887-88 (5th Cir. 2007)), considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the Court **DENIES** a COA as to its denial of Petitioner's construed Rule 59(e) motion.

The Court adopts and incorporates by reference the First FCR and the Second FCR in support of its finding that Petitioner has failed to show that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" or "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel,* 529 U.S. 473, 484 (2000).

But, if Petitioner elects to file a notice of appeal, he must either pay the $505 appellate filing fee or move for leave to appeal *in forma pauperis*.

SO ORDERED.

SIGNED October 14, 2021.

UNITED STATES DISTRICT JUDGE